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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,786	06/15/2001	Gabriel L. Romero	1003-0559	9984

7590 06/19/2003
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EXAMINER

BENSON, WALTER

ART UNIT	PAPER NUMBER
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2858

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/882,786

Applicant(s)

Romero et al.

Examiner

Walter Benson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 7, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11-17, and 21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-16, and 21 is/are rejected.
- 7) ☒ Claim(s) 7 and 17 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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FINAL ACTION

1. Amendment A, received on 4/07/2003, has been entered into record. In this amendment, claim 5 was amended, and claim 21 was added.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 and 1-14, are rejected under 35 U.S.C. §103(a) as being unpatentable over Nihart (4,941,115) in view of Asprey (5,299,306).

4. As to Claims 1 and 11, Nihart teaches a hand held tester connecting a host device and a target device, considered to be the input/output ports of a DP system, such as peripheral devices to a central processor, the claimed impedances, considered to be a balun (Col. 4, lines 6-10). Nihart teaches connectors, but lacks the cables. Asprey teaches that it is well known to use terminals/extender cable lengths with an impedance matching network (Col. 12, lines 5-15). One

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of ordinary skill in the art would have readily recognized the advantage and desirability to use cables in order to achieve critical dampening in some systems and devices.

5. As to Claims 2 and 12, Nihart further teaches at least one signal measurement connector (#221 and #222).

6. As to Claims 3 and 13, Nihart teaches a system wherein a controller supervises the transfer of data to and from multiple I/O devices, considered to be a server (Col. 2, lines 10-15).

7. As to Claims 4 and 14, Nihart teaches a storage controller controlling multiple disk drives, considered to be a disk sub-system (Col. 2, line 14-15).

8. Claims 5 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nihart (4,941,115) and Asprey (5,299,306) as applied to Claims 1 and 11 above, and further in view of Sturm, Jr. (3,571,752).

9. As to Claims 5 and 15, Nihart and Asprey lack a switch. Sturm, Jr. teaches that it is well known to use a switch (#28) to select various impedances (Col. 4, lines 6-12). One of ordinary skill in the art would have readily recognized the advantage and desirability to use a switch in

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order to have the user directly control the setting depending upon the user's wants and needs according to the situation involved. Also, to use a manual means accomplishes the same result.

10. Claims 6 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nihart (4,941,115) and Asprey (5,299,306) as applied to Claims 1 and 11 above, and further in view of, Wallace (5,926,031).

11. As to Claims 6 and 16, Nihart teaches using the testing instrument between a CPU and work stations, printers, etc. (Fig. 1). Wallace teaches that impedance matching for SCSI standards is important. One of ordinary skill in the art would have readily recognized the advantage and desirability to test the impedance matching regarding SCSI because if significant mismatching occurs, reflections may cause data or address errors on the bus with digital ones being read as zeros, or vice versa (col. 1, lines 17-19).

12. Claim 21 is rejected under 35 U.S.C. §103(a) as being unpatentable over Nihart (4,941,115) and Asprey (5,299,306) as applied to Claims 1 and 11 above, and further in view of, Bagg (6,341,358).

Although the combine teaching of Nihart and Asprey shows substantial features of the claimed invention (discussed above), it fails to disclose:

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a switch to selectively connect any one of the cables of the cable environment between a host device and target device.

Nonetheless, these features are well known in the art and would have been an obvious modification to the system disclosed by Nihart in view of Asprey as evidenced by Bagg.

In an analogous art, Bagg discloses a parallel data bus tester for SCSI type buses having:
a switch to selectively connect any one of the cables of the cable environment between a host device and target device (68, Fig 4; col. 8, lines 44-48). One of ordinary skill in the art would have readily recognized the advantage and desirability to use switch controls in order to achieve testing of multiple transmission paths in some systems and devices.

Allowable Subject Matter

13. Claims 7 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Applicant's arguments filed on 7/07/03, have been fully considered but they are not persuasive.

15. In the remarks, applicant argues in substance that:

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- (1) There is no motivation or suggestion to combine references Nihart and Asprey;
- (2) Asprey does not teach the use of cables.

16. Examiner respectfully traverses applicants remarks:

a. As to point (1) see paragraphs above, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Nihart and Asprey are analogous art for monitoring signals over communications lines/cables.

b. As to point (2), see paragraphs above, Applicant failed to consider the Asprey reference as a whole which teaches that it is well known to use terminals/extender cable lengths with an impedance matching network (Col. 12, lines 5-15).

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Prior Art Made of Record

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A. Cook (US Patent No. 6,496,014 B1) discloses a probe for a cable tester;
- B. Walling (US Patent No. 6,259,256 B1) discloses a cable testing apparatus;
- C. Fernandez (US Patent No. 6,512,378 B2) discloses a network cable tester;
- D. Flaherty et al. (US Patent No. 5,414,343) discloses an apparatus for testing a network cabling.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter Benson whose telephone number is (703) 306-4525. The examiner can normally be reached on Monday to Thursday and alternate Fridays from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le, can be reached on (703) 308-0750. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9318; Before-Final or (703) 872-9319; After-Final.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

Walter Benson *WB*
Patent Examiner

June 10, 2003

Jay Patidar
JAY PATIDAR
PRIMARY EXAMINER